

CLUFF OIL, INC.

IBLA 82-542

Decided May 25, 1982

Appeal from decision of Utah State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application U-49927.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases: First-Qualified Applicant

An oil and gas lease application filed by a corporation in a simultaneous filing is properly rejected where it is not accompanied either by corporate qualification papers, as required by 43 CFR 3102.2-5, or by any reference to a serial number indicating where such information can be found, as permitted by 43 CFR 3102.2-1(c). Such omissions cannot be cured after the drawing.

2. Oil and Gas Leases: Applications: Drawings -- Oil and Gas Leases: Applications: Filings

Where a potential oil and gas lease applicant that has filed a statement of corporate qualifications in accordance with 43 CFR 3102.2-1(c), but has received no serial number, later files an application unaccompanied by a statement of qualifications as required by 43 CFR 3102.2-5, the application must be rejected as incomplete.

APPEARANCES: Gregg I. Alvord, Esq., Salt Lake City, Utah, for appellant; Susan M. Rogers, Esq., Denver, Colorado, for adverse party.

OPINION BY CHIEF ADMINISTRATIVE JUDGE PARRETTE

Cluff Oil, Inc., appeals from the February 1, 1982, decision of the Utah State Office, Bureau of Land Management (BLM), which rejected its simultaneous oil and gas lease application, U-49927, because the application did not contain a reference to previously filed qualifications, as allowed by 43 CFR 3102.2-1(c), and was not accompanied by a statement of qualifications as was otherwise required by 43 CFR 3102.2-5. Appellant was the first drawn applicant for parcel UT 34 in the September 1981 drawing.

Appellant points out that it is a Delaware corporation, wholly owned by Cluff Oil Limited, a British corporation and that it initially filed a complete statement of its corporate qualifications on August 18, 1980. However, BLM for the next 15 months continued to require additional information as to the parent corporation and its stockholders; and appellant's statement of qualifications was not actually approved and assigned a serial number by BLM until November 12, 1981, nearly 3 months after appellant filed its application for the drawing in question. Appellant asserts that BLM acted arbitrarily and capriciously in delaying approval of the statement of qualifications, thereby unreasonably preventing appellant from referring to a serial number in its otherwise successful application.

In an answer to appellant's statement of reasons, the second drawn applicant argues that BLM was entitled to inquire into appellant's statement of qualifications and that, in any event, the regulations required appellant either to file the required statements with its application or to refer to an assigned serial number. However, appellant, though lacking the required serial number, did not opt to submit the required corporate qualification documents with its August application. Thus, mandatory information was omitted, and appellant's application must be rejected. Moreover, the answer alleges, defective applications in simultaneous drawings cannot be subsequently cured or supplemented because to do so would violate the rights of the second drawn applicant.

[1, 2] The arguments of the adverse party accurately reflect the law on the subject. An oil and gas lease application filed in the name of a corporation in a simultaneous filing is properly rejected where it is not accompanied either by corporate qualification papers, as required by 43 CFR 3102.2-5, or by any reference to a serial number where such information might be found, as permitted by 43 CFR 3102.2-1(c). Such omissions cannot be cured after the drawing. Cheyenne Resources, Inc., 46 IBLA 277, 87 I.D. 110 (1980).

It follows that even where a potential oil and gas lease applicant that has previously filed a complete and undisputed statement of qualifications, but has received no serial number for the statement of qualifications under the regulations at 43 CFR 3102.2-1(c), later files an application unaccompanied by a statement of qualifications as required by the regulation at 43 CFR 3102.2-5, the application must be rejected as incomplete. Cf. Zappia Exploration Group, 60 IBLA 336 (1981).

Thus, even if we accepted at face value appellant's arguments that its corporate qualifications should have been accepted sooner by BLM, the result

in this case would be unchanged. The mandate of 43 CFR 3102.2-5 is clearly that statements of qualifications must accompany corporate applications, and oil and gas applicants may avail themselves of the convenient reference permitted by 43 CFR 3102.2-1(c) only if such a reference is appropriately utilized on the oil and gas lease application itself. 1/ Cf. Ari-Mex Oil & Exploration, Inc., 53 IBLA 37 (1981).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bernard V. Parrette
Chief Administrative Judge

We concur:

James L. Burski
Administrative Judge

Gail M. Frazier
Administrative Judge

1/ Appellant also argues that recent amendments to 43 CFR Subpart 3102 (47 FR 8544 (Feb. 26, 1982)), render the BLM decision rejecting its application "even more inequitable." However, the adverse party correctly points out that the governing regulation is that in effect at the time the application is filed. Samedan Oil Corp., 62 IBLA 228, 230 (1982).

